

Appl. No. : 10/698,031
Filed : October 29, 2003

AMENDMENTS TO THE DRAWINGS

Please replace Figures 25, 26A, 26B, 28, and 29 with the attached replacement sheets. Each drawing sheet is labeled as a "Replacement Sheet." The replacement sheets provide form numbering and labels, and no new matter is provided.

REMARKS

Claims 1-146 were pending, Claims 102-118 and 126-145 having been withdrawn. With the present Response, Applicants amend Claims 1, 5, 89-91, 100, 119, 122-125, and 146; cancel Claims 15, 32, 101-118, 120, and 126-145; and add new Claims 147-185. All of the pending claims include previously allowed subject matter; therefore, the present application is now in condition for allowance.

Allowed Subject Matter

Applicant note with appreciation the Examiner's indication of allowable subject matter in Claims 5, 15, 89, 90, 122-125 if rewritten in independent form and to overcome the rejections under 35 U.S.C. § 112, 2nd paragraph; and Claims 4, 6, 9, 12, 13, 19-23, 28, 29, 32-36, 38-40, 48, 51, 52, 54-56, 58, 67, 70-73, 76, 80, 81, 83-86, 94-96, 98-101, 120, and 121 if rewritten in independent form.

As discussed below, the previously-pending independent claims have been amended to include the limitations of at least one allowable dependent claim, and the new independent claims correspond to previously-allowed dependent claims. Therefore, all the claims are now allowable, and the present application is now in condition for immediate allowance.

Specification

The Office Action objects to the disclosure for various informalities associated with the priority claim. The amendments to the specification described above provide the requested information, and render the objection moot. The Office Action also objects to the Abstract as having more than 150 words. Applicants have amended the Abstract accordingly, as provided above. Applicants have not added any new matter with the foregoing amendments. Applicants respectfully request withdrawal of the specification objections.

Drawings

The Office Action objects to the drawings for informal numbering and labels on Figures 25, 26A, 26B, 28, and 29. The drawing amendments provided above provide formal numbering and labels, rendering the objection moot. Applicants have not added any new matter with the

foregoing amendments. Furthermore, Applicants have labeled each drawing sheet provided herein as a "Replacement sheet." Applicants respectfully request withdrawal of the drawing objections.

Claim Rejections Under 35 U.S.C. § 112

Claims 5, 15, 89, 90, and 122-125 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 5, 89, 90, and 122-125 have been amended to address the 35 U.S.C. § 112, second paragraph issues. Furthermore, although Applicants respectfully disagree with the rejection of Claim 15, Claim 15 has been canceled to expedite prosecution. Therefore, Applicants respectfully request withdrawal of the claim rejections.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-3, 7, 8, 10, 11, 14, 16, 24-27, 30, 31, 37, 41, 43, 44, 53, 57, 59, 61-65, 68, 69, 74, 75, 77, 78, 87, 88, 91-93, 97, and 146 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,163,429 to Cohen. In addition, Claims 1-3, 7, 11, 14, 17, 18, 25, 26, 30, 31, 37, 42-47, 49, 50, 53, 57, 59-64, 66, 68, 69, 79, 82, 87, 88, 91-93, 97, 119, and 146 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,580,946 to Struble.

Applicants respectfully traverse the rejections and disagree that either Cohen or Struble anticipate any of the foregoing claims. However, to expedite prosecution, Applicants have amended the independent claims, as discussed below. Applicants reserve the right to prosecute previous versions of all amended claims in one or more future patent applications.

Claim 1 has been amended to include all of the language of allowed Claim 32; therefore, Claim 1 distinguishes over the applied art, as well. Claims 2, 3, 7, 8, 10, 11, 14, 16-18, 24-27, 30, 31, 37, 41-47, 49, 50, 53, 57, 59-66, 68, 69, 74, 75, 77-79, 82, 87, and 88 depend from Claim 1; therefore, Claims 2, 3, 7, 8, 10, 11, 14, 16-18, 24-27, 30, 31, 37, 41-47, 49, 50, 53, 57, 59-66, 68, 69, 74, 75, 77-79, 82, 87, and 88 distinguish over the applied art, as well. In addition, Claims 2, 3, 7, 8, 10, 11, 14, 16-18, 24-27, 30, 31, 37, 41-47, 49, 50, 53, 57, 59-66, 68, 69, 74, 75, 77-79, 82, 87, and 88 distinguish over the applied art for the unique combinations of features recited in those claims.

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Claim 91 has been amended to include all of the language of allowed Claim 101; therefore, Claim 91 distinguishes over the applied art, as well. Claims 92, 93, and 97 depend from Claim 91; therefore, Claims 92, 93, and 97 distinguish over the applied art, as well. In addition, Claims 92, 93, and 97 distinguish over the applied art for the unique combinations of features recited in those claims.

Claim 119 has been amended to include all of the language of allowed Claim 120; therefore, Claim 119 distinguishes over the applied art, as well.

Claim 146 has been amended to include language similar to that of allowed dependent Claim 9. In particular, Claim 146 now recites, "An apparatus . . . comprising: a sensor . . . , wherein the sensor is configured to be implanted in the atrial septum of the heart; a cardiac rhythm management apparatus . . . ; a signal processor . . . ; and a signaling device" Neither Cohen nor Struble teach or suggest at least a sensor configured to be implanted in the atrial septum of the heart. Therefore, for at least this reason alone, Claim 146 distinguishes over the applied art.

Claim Rejections Under 35 U.S.C. § 103

Claim 40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Cohen in view of the textbook titled, The Foundations of Cardiac Pacing, Pt. I: An Illustrated Practical Guide to Basic Pacing, by Sutton et al., 1991.

Claim 40 depends from Claim 1, which distinguished over the applied art, as discussed above. Therefore, for at least this reason alone, Claim 40 distinguishes over the applied art, as well. In addition, Claim 40 distinguishes over the applied art for the unique combination of features recited in that Claim.

New Claims

With the present response Applicants add new Claims 147-185. Claims 147-154 depend from Claim 146, which distinguishes over the applied art, as discussed above. Therefore, Claims 147-154 distinguish over the applied art for at least the same reasons, as well. In addition, Claims 147-154 distinguish over the applied art for the unique combinations of features recited in those claims.

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New Claim 155 generally corresponds to allowed, dependent Claim 40 re-written into independent form. Claim 155 is not identical to Claim 40; however, Claim 155 still distinguishes over the applied art for at least the same reasons that Claim 40 does. Claims 156-164 depend from Claim 155 and therefore distinguish over the applied art for at least the same reasons, as well. In addition, Claims 156-164 distinguish over the applied art for the unique combinations of features recited in those claims.

New Claim 165 corresponds to allowed, dependent Claim 70 re-written into independent form. Therefore, Claim 165 distinguishes over the applied art, as well. Claims 166-174 depend from Claim 165 and therefore distinguish over the applied art for at least the same reasons, as well. In addition, Claims 166-174 distinguish over the applied art for the unique combinations of features recited in those claims.

New Claim 175 corresponds to allowed, dependent Claim 70 re-written into independent form. Therefore, Claim 175 distinguishes over the applied art, as well. Claims 176-185 depend from Claim 175 and therefore distinguish over the applied art for at least the same reasons, as well. In addition, Claims 176-185 distinguish over the applied art for the unique combinations of features recited in those claims.

All of the new dependent claims find support at least in previously-pending dependent claims. For example, the following table indicates the previously-pending claims that generally correspond to the new claims. No new matter is added with the new claims.

Previously-pending Claims . . .	Generally correspond to new Claims
9	156, 166, 176
11	147, 157, 167, 177
14	148, 158, 168, 178
32	149, 159, 169, 179
40	150, 170, 180
45	151, 160, 171, 181
48	152, 161, 172, 182
58	153, 162, 173, 183
67	163, 174, 184
70	154, 164, 185

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

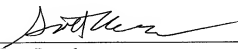
CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance, and such action is earnestly solicited. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/11/07

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